



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

AFBCMR 98-00415

24 JUL 1998

MEMORANDUM FOR THE CHIEF OF STAFF

Under the authority of Section 1552, Title 10, United States Code, Air Force Instruction 36-2603, and having assured compliance with the provisions of the above regulation, the decision of the Air Force Board for Correction of Military Records is announced, and it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] be corrected to show that on 1 March 1986, he elected, under the provisions of Public Law 99-145, to change his Survivor Benefit Plan (SBP) coverage from "spouse coverage" to "former spouse coverage," naming [REDACTED] as the former spouse beneficiary, based on a reduced annuity.

A handwritten signature in cursive script that reads "Donna Pittenger".

DONNA PITTENGER
Chief Examiner
Air Force Board for Correction
of Military Records



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AFBCMR 98-00415

MEMORANDUM OF CONSIDERATION OF APPLICATION BEFORE THE AFBCMR

SUBJECT: [REDACTED]

Having carefully reviewed this application, we agree with the recommendation of the Air Force and adopt the rationale expressed as the basis for our decision that the applicant has been the victim of either an error or an injustice. Therefore, under the authority delegated in AFI 36-2603, the applicant's records will be corrected as set forth in the accompanying Memorandum for the Chief of Staff signed by the Executive Director of the Board or his designee.

A handwritten signature in cursive script, appearing to read "James A. Mahoney".

Panel Chair

Attachment:
Ltr, AFPC/DPPTR, dtd 2 Jun 98

**ADDENDUM TO
RECORD OF PROCEEDINGS**

The following members of the Air Force Board for Correction of Military Records considered this case in Executive Session on July 9, 1998, in accordance with AFI 36-2603 and 10 USC 1552.

Mr. Thomas S. Markiewicz, Panel Chair

Mr. Jackson A. Hauslein, Member

Mr. Michael P. Higgins, Member



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

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MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPTR
550 C Street West Ste 11
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of Military Records

Reference: [REDACTED]

Requested Correction: The applicant, former spouse of the above-named retired member, is requesting corrective action that would entitle her to a Survivor Benefit Plan (SBP) annuity.

Basis for Request: The applicant claims the decedent continued to pay premiums on SBP and said the SBP belonged and should go to her.

Background: A spouse beneficiary loses eligibility to receive an SBP annuity following divorce. Public Law (PL) 98-94, 24 Sep 83 authorized former spouse SBP coverage under the insurable interest for retired members and established a one-year open enrollment period (24 Sep 83 - 23 Sep 84). PL 99-145, 8 Nov 85 (effective 1 Mar 86) provided former spouse coverage with the same premiums and features as spouse coverage and authorized an open enrollment period (8 Nov 85 - 7 Nov 86) for members to change from insurable interest option (with the former spouse's concurrence), or for participants to elect former spouse coverage.

Facts: The applicant and member were married on 15 Jun 57 and the member elected spouse coverage based on a reduced base amount prior to his 1 Mar 75 retirement. The parties divorced on 29 Mar 85; but premiums for spouse coverage continued to be deducted from the member's retired pay until his 11 Nov 97 death.

Discussion: Although the decedent made no election change during the required one-year time limit following divorce, there is no evidence that he requested coverage for his former spouse be terminated, indicative of his intent to maintain her as the eligible SBP beneficiary as required by the court order. To deny this request would be to deny the applicant an asset awarded her by the court.

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Recommendation: Although there is no evidence of Air Force error, to preclude a possible injustice, we recommend that the member's record be corrected to reflect that on 1 Mar 86, he elected to change SBP spouse to former spouse coverage based on reduced base amount, naming [REDACTED] as the former spouse beneficiary. An effective date of 1 Mar 86 is appropriate as this is the first date former spouse coverage could have been established under the same costs and conditions as spouse coverage. Approval should be contingent upon recoupment of appropriate premiums.



PAT PEEK, DAFC
Chief, Retiree Services Branch
Directorate of Pers Program Mgmt

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